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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,585	11/28/2000	Alexander J. Dyakonov	4800-090	8519

7590 10/24/2002
RHODES & MASON, P.L.L.C.
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Greensboro, NC 27402

EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 10/24/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

TC-12

Advisory Action	Application No. 09/723,585	Applicant(s) DYAKONOV ET AL.	
	Examiner Carlos Lopez	Art Unit 1731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3, 22-30, 32-40, 46 and 47.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Response to Amendment

Response to Amendment

The filed amendment only obviates the objection made to claim 40 but the rejection recited paragraphs 1-2 of the Final Action, Paper No.10, are maintained.

Applicant's arguments filed 10/14/02 have been fully considered but they are not persuasive. Applicant traverses the rejections made to claims 1-3 under 35 U.S.C 112 1st Paragraph. Applicant's denotations recited in the instant-filed arguments does not support the claimed limitation of "absorbent material separate from main stream combustion product". The disclosure only supports a diversion of carbon monoxide from the mainstream smoke but does not provide support for the limitation that the release of carbon monoxide or reaction product thereof from the adsorbent material would create a flux from the adsorbent material that is separate from the main stream. It is clear from the specification that there is a flux created by the released carbon monoxide or reaction products from the adsorbent material but the claimed limitation that the flux is separate from the main stream smoke is not supported in the disclosure. In fact some of the released carbon monoxide and reaction products may flow back to the mainstream smoke when there is no suction by the user.

Applicant additionally argues that Wahle et al does not provide motivation to provide venting holes that would divert main stream smoke from the user. The claimed limitation is notoriously known in the tobacco art. As explicitly taught by Wahle, providing venting holes on the filter of a cigarette decreases the percentage of nicotine and tar inhaled by the smoker via perforations on the tipping paper (Column 1, Lines 35-40). Therefore, since Dale et al is directed to decreasing deleterious components of the


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tobacco mainstream smoke, it would have been obvious to a person of ordinary skill in the art to have provided venting holes in order to further decrease the inhalation of deleterious compounds as taught by Wahle et al .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.


STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

C.L
October 22, 2002